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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ERG AEROSPACE CORPORATION,)	CASE NO. 13-2973 VC
)	
Plaintiff,)	STIPULATION AND proposed ORDER
)	RE: CHECKS
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
UNITED STATES OF AMERICA,)	
)	
Counterclaim-Plaintiff,)	
)	
v.)	
)	
ERG AEROSPACE CORPORATION,)	
ENERGY RESEARCH & GENERATION,)	
INC., individually, and d/b/a ERG)	
MATERIALS & AEROSPACE CORP.,)	
)	
)	
Counterclaim-Defendants.)	
)	

THE PARTIES, THROUGH THEIR UNDERSIGNED COUNSEL, STIPULATE AS FOLLOWS:

1. The entity conducting business at 900 Stanford Avenue, Oakland, CA, and, at various times, known as Energy Research & Generation, Inc., ERG Aerospace, and/or ERG Materials & Aerospace currently has certain checks located in the company safe.

1 2. The checks currently located in the safe total \$321,351.00 and are identified as follows:

2 a. Mechanics Bank Official Check No. 2008121899 dated July 23, 2013 made payable
3 to ERG Aerospace Corp in the amount of \$50,000.00.

4 b. Mechanics Bank Official Check No. 2008121898 dated July 23, 2013 made payable
5 to ERG Aerospace Corp in the amount of \$50,000.00.

6 c. Mechanics Bank Official Check No. 2008132622 dated December 31, 2013 made
7 payable to ERG Aerospace Corp in the amount of \$50,000.00.

8 d. Mechanics Bank Official Check No. 2008134407 dated January 30, 2014 made
9 payable to ERG Aerospace Corp in the amount of \$50,000.00.

10 e. Mechanics Bank Official Check No. 2008134408 dated January 30, 2014 made
11 payable to ERG Aerospace Corp in the amount of \$50,000.00.

12 f. Mechanics Bank Official Check No. 2008139929 dated April 23, 2014 made payable
13 to ERG Aerospace Corp in the amount of \$20,000.00.

14 g. Bank of America Cashier's Check No. 0847701444 dated May 6, 2014 made payable
15 to ERG Aerospace Corp in the amount of \$22,400.00.

16 h. Bank of America Cashier's Check No. 0847701445 dated May 6, 2014 made payable
17 to ERG Aerospace Corp in the amount of \$22,400.00.

18 i. Tetac Incorporated Check No. 5063 dated October 8, 2012 made payable to ERG
19 Aerospace Corp in the amount of \$2,971.00.

20 j. Tetac Incorporated Check No. 5069 dated November 12, 2012 made payable to ERG
21 Aerospace Corp in the amount of \$1,080.00.

22 k. Tetac Incorporated Check No. 5098 dated May 14, 2013 made payable to ERG
23 Aerospace Corp in the amount of \$2,500.00.

24 3. Each of the parties to this stipulation expressly reserve their rights to assert in a court
25 proceeding that they are the entitled to all or a portion of these funds and that all or a portion of these funds
26 should be released pursuant to Court Order.
27
28

1 4. Without making any admissions or concessions and reserving all of their rights, the Parties
2 have agreed to place these funds in the possession of the Court pending a determination by the Court who is
3 entitled to these funds.

4 5. For the purpose of only ensuring that said funds are placed within the possession of the Court
5 pending a determination of who is entitled to said funds, Plaintiff and Counterclaim Defendants agree to
6 surrender the original paper checks referred to in Paragraph 2, above, to an IRS employee designated by
7 Defendant's counsel. The IRS employee will retrieve the checks from an employee of the business located at
8 900 Stanford Avenue, Oakland, California.

9 6. Thereafter, the checks will remain in the custody of the designee of Defendant's counsel for a
10 period of no more than 7 days. Thereafter, the parties agree that the checks shall be made payable by the
11 payee to the U.S. District Court for the Northern District of California and deposited into the Court's registry
12 into an interest bearing account.

13 7. The proceeds from the checks will only be disbursed from the Court's registry pursuant to
14 Court Order. The parties agree that the proceeds will remain in the Court's registry and associated with a
15 Petition that will be filed. That Petition will be filed and served on all parties that claim to have a right to the
16 proceeds of the checks and disbursement of any funds by the court will be decided in that matter.

17 8. The parties agree that this Stipulation will not be considered an admission by any of the
18 parties and said Stipulation will have no evidentiary value.

19
20 DATED: June 23, 2014

Respectfully submitted,

21 MELINDA HAAG
22 United States Attorney

23 /s/
24 THOMAS NEWMAN
25 Assistant United States Attorney
Tax Division

26 /s/
27 JEFFREY B. SETNESS
28 Attorney for Plaintiff and Counterclaim Defendants

ORDER

IT IS ORDERED that defendant's counsel, or his designee, shall deliver to the Clerk of the Court for the Northern District of California a check or several checks that were payable to plaintiff, ERG Aerospace, in the total amount of \$321,351;

IT IS FURTHER ORDERED that the \$321,351 shall be deposited with the registry of the Court by the Clerk of the Court for the Northern District of California in an interest bearing account until further order of the Court;

IT IS SO ORDERED.

DATED: June 27, 2014



THE HONORABLE VINCENT CHHABRIA
United States District Judge